



**STATEMENT BY MS. CATHERINE S. NAMAKULA
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PEOPLE OF AFRICAN DESCENT**

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Racism, racial discrimination, xenophobia and related forms of intolerance,
follow-up and implementation of the Durban Declaration and Programme of
Action

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Mr. President
Distinguished representatives
Ladies and Gentlemen

It is an honour for me to address you as Chairperson of the Working Group of Experts on People of African Descent.

Mr. President, over twenty years have passed since the adoption of the Durban Declaration and Programme of Action and the creation of this Working Group. The human rights situation of people of African descent remains an urgent concern. The global cry for an end to the systemic racial discrimination faced by men, women and children of African descent in all areas of life is still as heart breaking as ever. The demands for respect, recognition, justice, and development are clear and unequivocal.

The Working Group is outraged at continued incidents of racially motivated violence against people of African descent. Just this year there have been several racist and violent acts, including:

On 14 May 2022 in Buffalo, New York, United States, an avowed white supremacist shot 13 people in a shop, killing 10 people of African descent and injuring 3 others;

On 24 May 2022, at least 26 people were killed in a police raid in Rio de Janeiro, Brazil. Most of the identified victims were young people of African descent;

On 24 June 2022, at least 23 Africans were killed attempting to cross the Spain-Moroccan border in Melilla;

It is already two years since the murder of George Floyd by police in the United States, which was courageously filmed by Ms. Frazier, a 17-year-old woman of African descent, and sparked global anti-racism protests. Despite the global attention to the issue, the excessive use of force and killings of people of African descent by law enforcement continues with impunity in many countries.

We have repeated our calls to Member States to take into account the multiple, interconnected and compounding forms of discrimination, which are faced by people of African descent in their interactions with law enforcement and other authorities, resulting from nationality, migration status, gender, colour, age, religion, disability, socioeconomic and other status.

States should translate their commitments under international human rights law into accountability and redress, and plans of action into tangible improvements in the lived situation of people of African descent. States should also exercise due care and diligence in the treatment of people of African descent on the move, and guarantee their access to safety, development and justice. It's not enough to pay lip service to racism and try to

train people to abandon this seemingly established project, but render it unsustainable by attaching adverse consequences to its occurrence. The momentum at the international level has elevated the profile of racial justice from a moral appeal to a legal obligation.

Similarly, it is no longer probable for any state to deny or conceal racism with any prospects of success. Contemporary civilisation requires action for complete elimination of racial discrimination and redress for past legacies by way of reparations. The agenda for reparations has to be propelled with urgency and determination, while avoiding the risk of replicating the vice it is intended to redress.

The Working Group commends the concrete steps taken for the protection of the human rights of people of African descent at the international, regional, national and local levels, including implementation of the programme of activities of the International Decade for people of African descent and the agenda towards transformative change for racial justice and equality set out by OHCHR. This year we welcome the operationalization of the Permanent Forum of people of African descent, the establishment of EMLER, an independent mechanism on law enforcement, and the increased capacity of the Office of the High Commissioner for Human Rights to address these concerns. We are committed to working together to ensure concrete change in the lived experience of people of African descent.

Today, I will present **three reports**, our annual report on Children of African descent and our reports following official country visits to Portugal and Switzerland.

Mr President, **our annual report** provides an overview of the Working Group's twenty-ninth and thirtieth sessions including, a summary of this year's thematic debate and our recommendations.

In May this year, the Working Group's public session, held for the first time in New York, focused on the theme "Children of African descent". It discussed the human rights situation of children of African descent globally. We discussed racial discrimination and inequality faced by children of African descent in all areas of life, including administration of justice, law enforcement, education, health, family-regulation systems, and development, as well as redress for legacies of enslavement, colonialism and racial segregation.

We concluded that the heritage of children of African descent is tainted by racial discrimination and the unresolved legacies of trade and trafficking of enslaved Africans and colonialism, post-colonial apartheid and segregation. The

rights and best interests of children of African descent are not proportionately protected.

We discussed how false racial stereotypes of criminality, culpability and dangerousness, including the particularly harmful myth of “superpredator”, influences decision-making in relation to children and youth of African descent, including by legal system personnel, such as police officers, prosecutors, lawyers and judges. Throughout the diaspora, children of African descent face heavier policing, including more arrests, police surveillance, racial profiling, strip searches and excessive use of force. The law and law enforcement agencies are in conflict with children of African descent in many respects.

Children of African descent are disproportionately represented in the criminal justice system. Systemic racism is often evident in the contrast between punitive responses experienced by children of African descent and the child-centred responses to the delinquency of other children.

We urged Member States to (a) reduce the footprint of police in the lives of children of African descent, including by adopting a public health approach to public safety that, safeguards against discrimination by the criminal justice system, using existing racial disparities as a guide for action, (b) rigorously protect investigations from bias, (c) respect the presumption of innocence and the presumption of authenticity of birth or age-registration documents and (d) employ restorative justice frameworks prioritizing healing, understanding and equity.

We have also observed in multiple States, persistent racial disparities in family interventions, including removal of children and termination of parental rights, which often involve racialized decision-making and outcomes that portray cultural bankruptcy. Families of African descent have been torn apart by legalized separation ever since the global trade in enslaved Africans and the international agreement that people of African descent, including children, were legally property to be trafficked and sold.

We discussed racial disparities in relation to education outcomes. We noted the importance of member states ensuring that children of African descent are protected from direct or indirect racial discrimination, stigmatization, psychological and physical violence, and bullying.

We urged States to ensure that students learn in environments free from racist or hostile attitudes of teachers and peers. Negative racial stereotypes and imagery in teaching materials are a concrete example of systemic racism. Equal access to quality education at all levels, respect for learning differences and equal achievement outcomes are required.

We commend states that have begun revising and developing specific curricula and teaching materials that respect and recognize history, including enslavement, the trade in enslaved Africans, and the contributions of people of

African descent. This is both a reparative and protective measure that needs to be emulated.

We recognized the important role of youth in mobilizing for change and emphasized that anti-racism movements and initiatives led by young people of African descent should be encouraged, supported and protected. We added that, policies affecting children and youth of African descent should be developed with their participation and inclusion.

We recommended that States should recognize the importance and ensure the protection and promotion of the human rights of children of African descent, including in the draft United Nations declaration on the promotion and full respect of the human rights of people of African descent. We stand ready to assist in this important work.

Mr. President, during the reporting period, the Working Group visited **Portugal** and **Switzerland**. In both countries, we met with Government, national institutions, and civil society. In each location visited, the Working Group met with a considerable number of people of African descent, human rights activists, lawyers, academics, professionals and representatives of non-governmental organizations. We would like to take this opportunity to thank the Governments of Portugal and Switzerland, and reiterate our satisfaction at the willingness shown by both Governments to engage in dialogue, cooperation and action to combat racial discrimination and implement the human rights recommendations received in that regard. The Working Group hopes that its reports will support the Governments in that process. We would also like to express our appreciation to civil society and people of African descent, for sharing their concerns and recommendations with our delegations in both countries.

During its mission to Portugal from 29 November to 6 December 2021, the Working Group visited Lisbon, Setúbal and Porto. The Working Group welcomes the positive steps taken to guarantee the human rights of people of African descent including:

(a) The emerging discourse on systemic racism in Portugal and its roots in historical processes and the Government's engagement with civil society in defining its anti-racism agenda; (b) the adoption of the National Plan to combat racism and discrimination (2021–2025) and the related creation of an independent observatory on hate speech, racism and xenophobia; (c) The promulgation of Law 93/2017 on combating racial discrimination; (d) the application of article 240 of the Penal Code in certain instances to combat racial discrimination and the efforts under way to bolster the provision.

Despite the positive measures taken, the Working Group was concerned about the human rights situation of people of African descent in Portugal. People of African descent in Portugal experience systemic racism in similar ways despite varied individual circumstances. We noted that although this was a follow-up visit, many of the Working Group's previous concerns and recommendations persist unabated. We concluded that the lack of racially disaggregated data significantly limits the ability of the State to recognize, acknowledge and act on severe human rights violations taking place in communities of African descent. Disaggregated data would help develop a systemic understanding of how racial disparities may indicate the improper, racialized use of discretion in ways that sustain and perpetuate racial discrimination, inequality and inequity.

As part of our recommendations, we recommend that Portugal's commitment to inclusion should be characterized by action that effectively complements the plan of action. We encourage all public officials to embrace the fight against racism and racial discrimination as a fundamental element of their work. We also call for an independent inquiry into widespread allegations of police brutality with a view to identifying the victims and affording them redress. The Government should constitute an independent oversight mechanism to address allegations of police misconduct. We also urge the Government to facilitate the process of reparatory justice for people of African descent.

Mr President, the Working Group visited **Switzerland** from 17 to 26 January 2022. The Working Group visited Bern, Geneva, Lausanne and Zurich.

The Working Group welcomes the good practices and the ideological commitment by the Federal Government to combat racism, racial discrimination, xenophobia and related intolerance and in particular its work to support anti-Black racism initiatives by civil society. We note the cantonal integration programme approach to non-discrimination, which includes a separate funding mechanism, counselling centres in each canton, and contact points for racism throughout Switzerland. We welcome the approach of the authorities in Geneva and in particular the Consultations held with people of African descent, and the 12 measures formulated to inform anti-racism activities, partial implementation of which are under way. We also welcome the commitment of the Government (i) to establish a national human rights institution, (ii) implement the December 2021 recommendations of the Committee on the Elimination of Racial Discrimination and (iii) prosecutions, including of public officials, for incitement of racial hatred.

Despite these positive measures, the Working Group remains concerned about the human rights situation of people of African descent in Switzerland. People

of African descent experience significant structural racial discrimination, and anti-Black racism, which have serious impacts on their economic, social, cultural, civil and political rights. Asylum-seekers and refugees of African descent reported intersectional racism and xenophobia, including (a) a lack of translation facilities, (b) persistent, shifting barriers to opportunity, and (c) harsh, racialized treatment by police and prison personnel, sometimes with impunity. We are deeply concerned about the treatment of people of African descent by law enforcement and the justice system in Switzerland. Police operations include brutal arrests, racial profiling, degrading treatment and the reinforcement of negative racial stereotypes in public spaces. Victims are advised against lodging complaints, which often result in reprisals that are supported by justice systems.

As part of our recommendations, the Working Group has encouraged Switzerland to (i) strengthen accountability measures especially the forthcoming national human rights institution. The institution should have a mandate to adjudicate individual complaints of racial discrimination, (ii) allocate human and financial resources adequate to the scope of its responsibilities, in full compliance with the Paris Principles, and (iii) ensure effective coordination with the Federal Commission against Racism. We also recommend the Government undertakes measures to assess, replicate, and scale effective local and international anti-racism initiatives in cantons in a nationwide reckoning with systemic racism and individual racial discrimination.

Mr. President, our work relies extensively on the important contribution of civil society and we would like to take this opportunity to **celebrate the many achievements and resilience of people of African descent**. They continue to lead the fight for racial justice and equality for all. In accordance with its mandate, the Working Group continues to send communications under its special procedure regarding allegations of human rights violations as reported by civil society. The Working Group also engages with international financial and development institutions and the UN to strengthen development planning and programmes. The Working Group's Operational Guidelines on inclusion of people of African descent in the 2030 Agenda adopted in 2020 are a tool to ensure that national programming processes are inclusive and address the human rights of people of African descent, among others.

Mr. President, I would like to reiterate the Working Group's availability and readiness to contribute to and support all efforts to end racial injustice and protect the human rights of all people of African descent.

I look forward to our dialogue this afternoon.

Thank you for your kind attention.